IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.Rev.Pet.No. 697 of 2000()

CRA.21/1997 of ADDL. SESSIONS COURT, ALAPPUZHA
CC.494/1994 of JUDL.MAGISTRATE OF FIRST CLASS-II, CHERTHALA
.....

REVN. PETITIONER: ACCUSED/ APPELLANT

K.SANTOSH, S/O.KUTTAPPAN,
NATTASSERY VEEDU, WARD IX,
KODAMTHURUTHU PANCHAYATH, SHERTHALAI,
ALAPPUZHA

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.G.BALAKRISHNAN

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY ITS
PUBLIC PROSECUTOR, HIGH COURT
OF KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP.697/2000

ORDER ON CRL.MP. 3811/2000 IN CRL.RP. 697/2000

DISMISSED

03.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

tss

K.R.UDAYABHANU, J

Crl.R.P.No.697 of 2000

Dated this the 3rd day of August, 2007

O R D E R

The revision petitioner is the accused who stands convicted for the offence under Sections 279, 337 and 338 IPC and sentenced to undergo simple imprisonment for one month for the offence under Section 279 IPC, simple imprisonment for one month for the offence under Section 337 IPC and simple imprisonment for three months for the offence under Section 338 IPC. So also his driving licence stands suspended for three months invoking Section 20 of the M.V. Act.

2. The prosecution case is that on 25.7.1994, at about 8.00 a.m., the accused drove KRY 5274 autorickshaw in a rash and negligent manner so as to endanger human life; suddenly turned towards the left when a lorry overtook the same and on account of the sudden turn taken, the vehicle overturned and the passengers sustained injuries including grievous injuries to PW2.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 10 and Exts. P1 to P8. The defence got

marked Exts. D1 and D2.

4. PWs' 1 to 3, the passengers, were travelling in the autorickshaw has testified with respect to the fact that the vehicle was driven in over speed and that the injuries took place only due to the rash and negligent driving by the accused. The doctors have proved the wound certificates i.e., Exts. P3 to P5. As per Ext. P5 wound certificate with respect to PW2 she has sustained injuries; fracture on the left arm and dislocation of the left elbow. The evidence of PW8, AMVI and Ext. P6 AMVI's report do establish that there was no mechanical defect to the vehicle. The identity of the accused as driver at the time has been proved by PWs' 1 to 3. In the circumstances, I find that the conviction is only to be confirmed.

5. So far as the sentence is confirmed counsel has pleaded for leniency pointing out that the incident has taken place more than 10 years ago and that the accused was so far facing the criminal proceedings and that he has no sufficient resources as such and that his family is depending on his income. In the circumstances, the sentence imposed under Section 338

IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to PW2. No separate sentence is awarded for the rest of the offences. The revision petitioner is granted two months' time to pay the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-II, Cherthala on 10.10.2007 to receive the sentence.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.R.P.No.697/2000

ORDER

3rd August 2007